

REMARKS

The invention of claim 1 relates to a problem that arises *only in aimable motion detectors*—more specifically, in an aimable motion detector where the motion detector housing is movable on a base member to aim the motion detector. It appears to the undersigned that the Examiner has not appreciated the significant role played in the invention by the aimability of the motion detector housing. Continued prosecution is sought so that the Examiner may consider these remarks in view of the aimability requirement.

Erismann is not an aimable motion detector and so does not face the problem confronted in the present invention. (We know the Erismann motion detector is not aimable because the body of the Erismann motion detector is shown mounted on a wall in the Erismann FIG. 1, so it cannot be moved. Further, Erismann has no discussion of moving the head and has no disclosure of any mechanism for doing so.) It also appears that Schwartz is not an aimable motion detector since there is likewise no discussion of moving the motion detector housing to aim it and no disclosure of a movable connection to a base member. Even if there were any suggestion in Schwartz that the motion detector might be aimable, Schwartz does not even hint that there might be a connection (either beneficial or detrimental) between his rearward-looking windows and the aimability.

In the last office action the Examiner indicated that “Erismann discloses an aimable PIR motion detector...” (Office Action, p. 2), but that conclusion is not supported by the Erismann disclosure. The Office Action (p. 2) identifies the Erismann reference numeral 8 as the base member of applicants’ claim 1 and asserts that the Erismann housing (12) is movably mounted to the Erismann “base member 8.” But Erismann himself describes his reference numeral 8 as a wall (Erismann, col. 2, lines 47-49). There is no discussion of any movable mounting.

The law of nonobviousness is clear on this point: The problem confronted by the inventor must be considered in determining whether it would have been obvious to combine references to solve that problem. See, for example, *In re Rinchart*, 531 F.2d 1048, 1054, 189 USPQ 143, 149 (CCPA 1976) (the particular problem facing the

inventor must be considered in determining obviousness); similarly, Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 7 USPQ2d 1315 (Fed. Cir. 1988).

The problem addressed by the invention of claim 1 is that of providing coverage of the area under and behind an aimable motion detector head when the head is aimed at different forward ranges (that is, farther out or closer in). This is a problem because when prior-art heads are aimed more downward, gaps can appear in the coverage under and/or behind the head. This is explained applicants' specification (see, for example, p. 2, lines 14-24, and p. 5, line 15 - p. 6, line 30). Neither the Erismann nor Schwartz motion detectors have to be concerned with such gaps because the heads are not aimable.

The Schwartz rearward-looking window is not the generally horizontal downward-looking window of claim 1. The Schwartz window plainly is not generally horizontal. The horizontal window is important here because the boundaries of the window block the detection of infra-red energy coming in from the rear side at an angle that is too high. Even if the rear side of the horizontal window gets angled up somewhat as the motion detector is aimed more downward to reduce the forward range, the rearward boundary of the window still serves to block most of the infra-red energy coming in from above. This is not so with the Schwartz rearward-looking window that is only angled downward from the vertical by an angle β . No matter what position the Schwartz motion detector may be angled at, the rearward-looking windows shown in Schwartz's FIGS. 2, 2a, 2b and 2c will all let in substantial infra-red from on high. This is counter to the second purpose of the invention, which is to limit false activations by limiting the upward-looking detection zones.

In summary, the Schwarz rearward-looking window does not address the problems faced by the present invention as defined in claim 1 or any of the other claims at issue, and the Schwarz rearward-looking window is not even the structure called for in the claims.

The Examiner suggested in the office action that Schwartz nevertheless suggests applicants' horizontal downward-looking window first because Schwartz teaches that the "rear field of view be directed at an angle β away from the vertical." (Schwartz, col. 3, lines 66-67.) The Examiner is apparently viewing this as including an angle of 90 degrees to the vertical. But that is a contrived reading of Schwartz. The context plainly has in

mind an acute angle, and Schwartz explicitly suggests what he means by pointing to the “angle of Fresnel lens 23 seen in FIG. 2.” (Schwartz, col. 3, lines 67-68.)

Second, the Examiner refers to the catch-all phrase at the end of the Schwartz specification suggesting that “other window/aperture and reflector combinations could well be added to the invention to provide yet additional fields of view.” (Schwartz, col. 5, lines 8-10.) This falls short of being a legally adequate suggestion to modify a reference because it is not specific. It is nothing more than a vague and unfounded assertion that things could be done differently, but it does not suggest the specific element of claim 1 at issue here. Moreover, the generally horizontal downward-looking window of applicants’ claim 1 and other claims has an advantage and serves a role not served by other windows taught by Schwartz and not appreciated or thought to be desirable by any of the cited art.

Although these arguments and explanations have been phrased primarily in terms of claim 1, they apply also to the other rejected claims.

In closing, the undersigned believes the Examiner has viewed the invention of the rejected claims as merely adding more detection zones to look behind the motion detector. It should now be clear that the point is not merely to add rearward or downward-looking detection zones, but to do it in an aimable motion detector in such a manner that the downward/rearward coverage is not compromised as the motion detector is aimed and such that upwardly aimed detection zones generating false activations are minimized.

The undersigned believes that in view of the above explanations the application is now in condition for allowance and action to that effect is respectfully requested. If the examiner feels that there are any lingering issues that can be resolved by telephone or feels that a telephone interview would be beneficial in any way, he is invited to call the undersigned at 510-658-9511.

Respectfully submitted,

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